

REMARKS

This Amendment is submitted preliminary to the issuance of an Office Action in the present application and in response to the Official Action of May 19, 2006.

Applicant notes with appreciation that claims 13, 14 and 29 are allowed.

With respect to claim 13, applicant has made an amendment which was necessitated in order to correctly set forth what applicant's invention is. Specifically, the claim sets forth more clearly that it is only the direct, incident light that strikes the upper translucent surface onto the fluid element (support for the change is found in paragraphs [0009] [0010] [0029] of the specification). It is submitted that the scope of the claim has not been changed with respect to the type of light that strikes the translucent surface. The change is thus cosmetic in nature and does not trigger prosecution history estoppel *a la Festo*. It is believed that claim 13 in its present form is allowable.

Applicant has also submitted a new claim 33 dependent on claim 13 which should thus likewise be allowable.

With respect to the formal rejections in the last office action, applicant has made changes to claim 22, by setting forth elements that the Examiner deemed missing. Furthermore, applicant also changed the term "energy" to "light" to stay in line with the wording of the dependent claims and without the need to change the dependent claims. The term "light collecting and conversion system" has been used throughout (supported by paragraph [0044] of the specification) and now is in conformance with the dependent claims. Furthermore, the amended claim 22 now recites the purpose and action of the optical lens system and furthermore, that the light collection and conversion system is part of the optical element. In this manner, applicant believes the Examiner's formal rejections under 35 U.S.C. §112, second paragraph have been overcome.

With respect to claim 23 dependent on claim 22, the formal rejection has likewise been overcome. With respect to claim 24, applicant has made changes

similar to claim 13, so that it is clear that the direct incident light is striking the upper surface. The formal rejection to claims 24-26 and 31 are thus also moot.

With respect to the substantive rejections, in particular the rejection of claim 27 under 35 O.K. §102(b) or in the alternative under 35 O.K. §103(a) on the basis of the Swiss reference to Wenger, applicant respectfully traverses this rejection.

Wenger discloses that a lens can be produced by simply pumping liquid, preferably water between two foils. Contrary thereto, claim 27 specifies that compressed air is pumped into the pillows and further specifies a light collecting and conversion system inside the pillow. This is neither disclosed nor suggested or taught by Wenger and thus claim 27 is not anticipated by Wenger.

Wenger also does not render claim 27 obvious since there is no teaching or suggestion in Wenger about a light collecting and conversion system inside the pillow. Wenger's "optical lens" is the liquid filled pillow itself, nothing is said about a light collection and conversion system inside. If Wenger foils were just filled with air, they would just be a collection of air pillows with no light collection and conversion taking place. Based thereon, claim 27 patentably distinguishes from Wenger and should be allowed.

The Examiner's rejection of claims 22, 23 and 28 and 32 as being obvious in view of a combination of Wenger and Maine is also respectfully traversed.

The fact that Wenger is a water lens that may be heated by light is not the same as the claimed pillows in claim 22 and the dependent claims, both from a technical point of view and from a legal point of view. The mere aspect of a water fill has numerous technical aspects which would need to be taken into account such as weight and size of such a pillow, the contraction and cooling of such a pillow, feasibility to use these water filled pillows for a green house roof. These aspects have been eliminated by the claimed invention. From a legal point of view the obviousness standard is to find some teaching or suggestion in the reference which would point to the combination of the references such that they are point in the direction of the claimed invention. Indeed there is no suggestion implicit or otherwise in the Wenger reference to not use water in the pillows and instead to use the water in a pool at the bottom of the greenhouse as in Maine. Applicant

disagrees with the Examiner's assessment that the two references are combinable and the Examiner merely points to the fact that Maine teaches a plurality of pillows. The Maine pillows however is not water filled. The trend would definitely be not to have the weight of such a water roof and Wenger does not imply that. At least not in what was forwarded to applicant. This approach by the Examiner is a "pick and chose" approach, whereby single elements are picked in combination in order to fulfill the required number of elements in a claim. This is a typical hindsight analysis that is when the invention is known then it can be synthesized *post hoc*.

Furthermore, The Examiner's comments on page 5 second paragraph regarding the Maine references are inapplicable. The Examiner talks about the maximum utilization of the sunlight during daylight hours. Maine is directed to a Dome of lenses in order to focus the sunlight onto the floor filled with water in a continuous manner. This is contrary to the invention since the invention is directed to collect the direct incident light with focus above the ground and directly into the light collection and energy conversion system for conversion. If a system as in Maine were used for a greenhouse it would leave burn marks on the greenhouse floor due to the daylong influx of light.

Neither Wenger nor Maine point in any way to a light collection and conversion system inside the pillow structure.

The dependent claims 23, 28 and 32 incorporate all the limitations of the defended independent claims and they would therefore also be allowable over the prior art.

In view of the above, each of the presently pending claims in this application is considered patentably differentiated over the prior art of record and believed to be in conditions for allowance. Reconsideration and allowance of the present application are thus respectfully requested.

Applicant has also scrutinized the cited art made of record by the Examiner and finds that a detailed discussion is not necessary.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully

requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

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